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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,359	11/20/2003	Vadivel Ganapathy	275.00080101	3660
26813 7590 08/07/2008 MUETING, RAASCH & GEBHARDT, P.A. P.O. BOX 581336 MINNEAPOLIS, MN 55458-1336				
EXAMINER				
PAK, MICHAEL D				
ART UNIT		PAPER NUMBER		
1646				
MAIL DATE		DELIVERY MODE		
08/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,359

Applicant(s)

GANAPATHY ET AL.

Examiner

Michael Pak

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12, 13, 20, 21, 27, 28, 50, 57-59, 78, 79, 82 and 83 is/are pending in the application.
- 4a) Of the above claim(s) 57-59, 76 and 77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 13, 20, 21, 27, 28, 50, 78-79, 82-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendment filed March 18, 2008 has been entered.
2. Applicant's arguments filed March 18, 2007, have been fully considered but they are not found persuasive.
3. Claims 1-11, 14-19, 22-26, 29-49, 51-56, 60-75 and 80-81 have been cancelled. Claims 57-59, 76 and 77 are withdrawn. Claims 12-13, 20-21, 27-28, 50, and 78-79 and 82-83 are examined below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 12-13, 20-21, 27-28, 50, 78-79 and 82-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Curtis et al. (US 2002/0193582).

Curtis et al. disclose citrate transporter of SEQ ID NO:2 which has 100% sequence identity with the claimed SEQ ID NO:6 (paragraph 0225). The transporter of Curtis et al. inherently has the properties of the claimed transporter.

5. Claims 12-13, 20-21, 27-28, 50, 78-79 and 82-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakanishi et al. (US 2004/0253597).

Nakanishi et al. disclose decarboxylate/citrate transporter of SEQ ID NO:1 which has 100% sequence identity with the claimed SEQ ID NO:6 (paragraph 0179). The transporter of Nakanishi et al. inherently has the properties of the claimed transporter.

6. Claims 12-13, 20-21, 27-28, 50, 78-79 and 82-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Alsobrook et al. (US 2006/0084054).

Alsobrook et al. disclose citrate transporter of SEQ ID NO:994 which has 100% sequence identity with the claimed SEQ ID NO:6 (page 19 and 610-619). The transporter of Alsobrook et al. inherently has the properties of the claimed transporter.

7. Claims 12-13, 20-21, 27-28, 50, 78-79 and 82-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. (US 2004/0043930).

Anderson et al. disclose citrate transporter of SEQ ID NO:72 which has 100% sequence identity with the claimed SEQ ID NO:6. The transporter of Anderson et al. inherently has the properties of the claimed transporter.

8. No claims are allowed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pak whose telephone number is 571-272-0879. The examiner can normally be reached on 8:00 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1646

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Pak/
Primary Examiner, Art Unit 1646
1 August 2008